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# GOVERNMENT GAZETTE

## BOLETIM OFICIAL

### SUPPLEMENT

(SUPLEMENTO)

#### GOVERNMENT OF GOA, DAMAN AND DIU

##### Secretariat

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/2734/65

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

#### The Goa, Daman and Diu Civil Courts Bill, 1965

(Bill No. 16 of 1965)

A Bill to provide for the constitution and organisation of a District Court and subordinate Civil Courts in the Union Territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India as follows:

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Civil Courts Act, 1965.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. Definitions. — In this Act, unless the context otherwise requires:

(a) «Administrator» means the Administrator of Goa, Daman and Diu, appointed under Article 239 of the Constitution.

(b) «High Court» means the Judicial Commissioner's Court constituted by the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963.

(c) «Official Gazette» means the Goa, Daman and Diu Government Gazette.

(d) «Union Territory» means the Union Territory of Goa, Daman and Diu.

#### PART II

##### District Court

3. District Court. — There shall be a District Court for the whole of the Union Territory, presided over by a Judge to be called the District Judge, but the Administrator may from time to time by notification in the Official Gazette, alter the limits of the District or create new Districts for the purposes of this Act.

4. Situation of District Court. — The District Judge shall ordinarily hold the District Court at Panjim, but may, with the previous sanction of the High Court, hold it elsewhere within the Union Territory.

5. Original jurisdiction of District Court. — The District Court shall be the principal Court of original civil jurisdiction in the district, with the meaning of the Code of Civil Procedure, 1908 or any other law for the time being in force.

6. Appellate jurisdiction of District Court. — Save as otherwise expressly provided in this Act, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

7. Control and inspection of Courts. — (1) Subject to the provisions contained in the Goa, Daman and

Diu (Judicial Commissioner's Court) Regulation, 1963 and the rules made thereunder, the District Judge shall have general control over all the Civil Courts subordinate to the District Court and their establishment and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all such Courts and to give such directions with respect to matters not provided for by law as he may think necessary.

(2) The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

**8. Writs and Orders.**—(1) The District Judge shall obey all writs, orders or processes issued to him by the High Court and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

(2) He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Administrator.

**9. Additional District Judges.**—The Administrator may appoint one or more Additional Judges to the District Court who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that an Additional District Judge shall not keep a file of civil suits or appeals and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to him by order of the High Court.

**10. Assistant Judges.**—The Administrator may appoint one or more Assistant Judges to assist the District Judge.

**11. Situation of Assistant Judge's Court.**—An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere if the Administrator, in consultation with the High Court, so directs.

**12. Original jurisdiction of Assistant Judge.**—(1) The District Judge may refer to any Assistant Judge original suits applications or references under Special Acts and miscellaneous applications.

(2) The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications or references as are referred to him by the District Judge under sub-section (1).

(3) Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge if the amount of value of the subject matter does not exceed ten thousand rupees and to the High Court in other cases.

**13. Appellate jurisdiction of Assistant Judge.**—(1) An Assistant Judge shall have jurisdiction to try such appeals from the decrees and orders of the subordinate courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

(2) Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

**14. Assistant Judge with powers of District Judge.**

(1) The Administrator may by notification in the

Official Gazette invest an Assistant Judge with all or any of the powers of a district Judge within a particular part of a District and may, by notification from time to time determine or alter the limits of such part.

(2) The jurisdiction of an Assistant Judge so invested shall pro tanto exclude the jurisdiction of the District Judge from within the said limits.

(3) Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Administrator, but may, with the previous sanction of the High Court hold it at any other place within such limits.

### PART III

#### Civil Judges

**15. Number of subordinate Civil Courts.**—There shall be so many Civil Courts subordinate to the District Court as the Administrator may, from time to time direct.

**16. Appointment of Civil Judges.**—The Judges of such Subordinate Courts shall be appointed by the Administrator and shall be called Civil Judges.

**17. Local limits of jurisdiction of Civil Judges.**—The Administrator, may by notification in the Official Gazette, fix, and by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the Civil Judges.

**18. Situation of subordinate Courts.**—(1) The Civil Judges shall hold their Courts at such place or places as the Administrator may, from time to time appoint within the local limits of their respective jurisdictions:

Provided that for special reasons it shall be lawful for the Administrator to order that a Civil Judge shall hold his Court at a place outside the local limits of his jurisdiction

(2) Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Civil Judge shall hold his court at each of such places, and the Civil Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

(3) The same person may be the Judge of more than one subordinate Court and may dispose of the Civil business of any one of his Courts at the headquarters of any other of his Courts, and in such cases the District Judge shall, subject to the control of the High Court prescribe rules for regulating the time during which the Civil Judge shall sit in each Court.

**19. Additional Civil Judges.**—(1) For the purposes of assisting the Judge of any subordinate Court in the disposal of the Civil business on his file, the Administrator may appoint to such Court one or more additional Civil Judges. An Additional Civil Judge shall dispose of such civil business within the limits of his pecuniary jurisdiction as may, subject to the control of the District Judge, be referred to him by the Civil Judge of such Court.

(2) For the purpose of this section the provisions of this Act applicable to Civil Judges shall be, applicable to additional Civil Judges.

**20. Classes of Civil Judges and their jurisdiction.—**

(1) The Civil Judges shall be of two classes, namely Senior Civil Judges and Junior Civil Judges.

(2) The jurisdiction of a Senior Civil Judge extends to all original suits and proceedings of a Civil nature.

(3) The jurisdiction of a Junior Civil Judge extends to all original suits and proceedings of a civil nature wherein the subject matter does not exceed in amount or value ten thousand rupees:

Provided that the Administrator may increase the limit of ten thousand rupees to fifteen thousand rupees in the case of any Junior Civil Judge of not less than ten years, standing and specially recommended in this behalf by the High Court. A Civil Judge so empowered shall continue to exercise this power so long and as often as he may fill the office of a Junior Civil Judge without reference to the place in which he may be employed unless the powers are withdrawn by the Administrator.

**21. Local limits of jurisdiction. —** (1) The local limits of the jurisdiction of every Civil Judge, Senior or Junior, shall be such as may from time to time be fixed by the administrator, by notification in the Official Gazette.

(2) A Senior Civil Judge in addition to his ordinary jurisdiction, shall have and exercise jurisdiction in respect of such suits and proceedings of a civil nature as may arise within the local jurisdiction of such Courts presided over by a Junior Civil Judge as may be specified by the Administrator by notification in the Official Gazette, and wherein the subject matter exceeds the pecuniary jurisdiction of the Junior Civil Judge as defined in the preceding section.

**22. Appeals from his decision.—**In all suits decided by a Civil Judge of which the amount or value of the subject matters exceeds ten thousand rupees the appeal from his decision shall be direct to the High Court.

**23. Appellate jurisdiction of Civil Judge.—**(1) The Administrator may invest any Senior Civil Judge with power to hear appeals from such decrees and orders of a Junior Civil Judge as may be referred to him by the District Judge.

(2) Decrees and orders so passed in appeal by a Senior Civil Judge, shall have the same force as if passed by a District Judge.

(3) A Senior Civil Judge, on whom the power of hearing appeals has once been conferred under this section shall continue to have this power so long and so often as he may fill the office of senior Civil Judge, without reference to the place in which he may be employed:

Provided that the Administrator may by notification in the Official Gazette at any time withdraw such power.

**24. Power to invest Civil Judges with small cause powers. —** (1) The High Court may invest any Civil Judge with the jurisdiction of a Court of Small Causes for the trial of suits cognizable by such courts up to such amount as it may deem proper, not exceeding in the case of a Senior Civil Judge one thousand and five hundred rupees and in the case of Junior Civil Judge five hundred rupees.

(2) A Senior Civil Judge or a Junior Civil Judge who is invested with the jurisdiction of a Court of Small Causes under sub-section (1) shall continue to have such jurisdiction so long and as often as he may fill the office of Senior Civil Judge or Junior Civil Judge as the case may be, without reference to the place in which he may be employed.

(3) The High Court may, whenever it thinks fit, withdraw such jurisdiction from any Civil Judge so invested.

**25. Power to invest Civil Judges with jurisdiction under special law. —** (1) The Administrator may by general or special order invest any Civil Judge, within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under any special law.

(2) Every order made by a Civil Judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject matter exceeds or does not exceed ten thousand rupees.

(3) Every order of the District Judge passed on appeal under sub-section (2) from the order of a Civil Judge shall be subject to an appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals from appellate decrees.

**PART IV****Miscellaneous**

**26. Suite in which Government is a party. —** (1) No Court other than the District Court shall receive or register any suit in which the Central Government or the Administrator or the Government of Goa, Daman and Diu or any officer of Government in his official capacity, is a party:

Provided that the Administrator may by general or special order notified in the Official Gazette, direct that the provisions of this section shall not apply to any suit or class or category of suits of the nature referred to therein.

(2) Nothing in this section shall be deemed to apply to a suit against the administration of a Government Railway.

**27. Seal. —** (1) The District Judge shall use a circular seal, in 050.8 metres in diameter, which shall bear thereon the Asoka Capital Motif with the following inscription in Hindi and English —

«District Court of Goa, Daman and Diu».

(2) Every additional District Judge and Assistant Judge shall use the seal of the District Judge.

(3) Each Civil Judge shall use a circular seal one inch and a half in diameter, bearing the Asoka Capital Motif with the following inscription in English and in Hindi —

«Civil Judge of .....».

**28. Temporary vacancy of Judges. —** (1) In the event of the District Judge being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, or of his death, the Senior most Additional District Judge if any, or in his absence, the Senior most Assistant

Judge if any or the Seniormost Civil Judge shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filling of suits and appeals, receiving pleadings, execution of processes, return of writs and the like and shall be designated Additional District Judge, Assistant Judge or Civil Judge as the case may be, in charge of the district and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

(2) In the event of the death, suspension or temporary absence of any Civil Judge, the District Judge may empower the Judge of any other subordinate Court to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court; but in every such case the registers and records of the two Courts shall be kept distinct.

**29. Delegation of powers of District Judge.** — Any District Judge leaving the station and proceeding on duty to any place within his district may delegate to an Additional District Judge, if any, or the Assistant Judge, or in the absence of an Assistant Judge to a Civil Judge at the station, the power of performing such of the duties enumerated in the preceding section as may be emergent; and such officer shall be designated Additional District Judge, Assistant or Civil Judge, as the case may be, in charge of the station.

**30. Ministerial Officers.** — (1) The duties and designations of the ministerial officers of the Civil Courts shall be regulated by such rules as the High Court may from time to time prescribe.

(2) There may be appointed to any Civil Court under this Act a clerk of the Court, who in addition to such duties as may from time to time be prescribed by the High Court may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

**31. Rules for keeping proceedings.** — The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

**32. Petition writers.** — (1) The High Court may, from time to time make rules consistent with this Act and any other enactment for the time being in force: —

(a) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate to it;

(b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them; and

(c) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made and determining the authority by which such breaches of the rules shall be investigated, the penalties imposed, and the procedure to be followed by such authority.

(2) Every fine imposed under clause (c) of subsection (1) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary jurisdiction.

**33. Sittings of Courts.** — The District and Subordinate Courts shall sit from day to day except on closed holidays notified by the High Court under section 21 of the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation 1963.

**34. Repeal and savings.** — As from the commencement of this Act, any law in force in the Union Territory making provisions for the constitution and organisation of Civil Courts, or any part of such law, shall stand repealed.

(1) Notwithstanding anything contained in the foregoing provisions: —

- (a) the constitution and organisation of Courts under this Act shall not prejudicially affect the continued operation of any notice served in junction issued, direction made or proceedings taken before the commencement of this Act by any court under the powers conferred upon it by any law for the time being in force;
- (b) every proceedings pending before a court of comarca immediately before the commencement of this Act shall, on such commencement, stand transferred to the corresponding court of Senior Civil Judge;
- (c) every proceeding pending before any court of Julgado immediately before the commencement of this Act shall, on such commencement, stand transferred to the corresponding court of Junior Civil Judge; and
- (d) every decree or order made or sentence passed by a court of Comarca or a Court of Julgado shall be deemed for the purpose of execution to have been made or passed by the corresponding court of Senior Civil Judge or Junior Civil Judge, as the case may be.

*Explanation:* — In this section the expression «corresponding court» means the court specified as such by order of the Administrator published in the Official Gazette.

**35. Rule of construction.** — Any reference in any law in force in the Union Territory to the Court of Comarca or to the Court of Julgado or to the Judge thereof, shall be construed as a reference respectively to the Court of Senior Civil Judge and the Court of Junior Civil Judge, or to the Judge thereto.

**36. Removal of difficulties.** — If any difficulty arises in giving effect to the provisions of this Act, the Administrator may, by order, published in the Official Gazette, make such provisions or give such directions (not inconsistent with the provisions of this Act) as may appear to him to be necessary for the removal of the difficulty.

#### Financial Memorandum

The Bill provides for the constitution of Civil Courts but it does not involve any expenditure from the Consolidated Fund as the existing Courts will

be transformed, into Courts under the new law and will function under it.

#### Memorandum on Delegated Legislation

No rule-making powers have been conferred on Government but the High Court, i. e. the Court of Judicial Commissioner has been invested with powers to frame rules regarding the manner in which records and proceedings of subordinate Courts should be kept as also the duties and functions of Ministerial Officers of Civil Courts. Further the High Court has been authorised to frame rules to regulate the functions of petition writers who are attached to Civil Courts. The delegation is normal in character.

#### Statement of objects and reasons

Legislation to extend the Code of Civil Procedure to this Union Territory is likely to be introduced

in Parliament in the next Session. If the Code is brought into force in Goa it would be necessary to provide for the constitution and organisation of Courts to which the Code can apply.

Accordingly it is proposed to establish District Courts and other Civil Courts in this Union Territory on the pattern of Civil Courts obtaining in the neighbouring States. The Bill seeks to constitute these Courts and to lay down the limits of their jurisdiction.

Panjim,  
July 21, 1965.

TONY FERNANDES  
Minister for Law

ASSEMBLY HALL, P. B. VENKATASUBRAMANIAN

Panjim,  
July 22, 1965.

Secretary to the Legislative Assembly  
of Goa, Daman and Diu.